IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 551 of 2004

Between:

Mir Shabbir Ali Khan, S/o Late Jehangir Ali khan,
R/o 22-6-617, Mandi Mir Alam, Hyderabad.

..... PETITIONER

AND

1 The Charminar Cooperative Bank Ltd., Represented by its Recovery Manager, (SPA) Purani Haveli, Hyderabad.
2 The Administrative Officer, The Charminar Cooperative Bank Ltd. Mallepalli, Hyderabad.
3 The District Cooperative Officer, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent Bank in not adjusting the Accounts in Petitioner NRE Account No.532/1997 and FDR of Petitioner niece in Account No.383 and FDR of Petitioner nephew in Account No.384 namely Zainab Zakir and Kazem Zakir as per their letters to the bank dated 7-7-2002, Account No.2180 of the petitiner and Account No.2182 of Petitioners daughter Nargis Fatima and Nakat Fatima 2183 with the loan account of the petitioner in account No.37/2000, as illegal, unconstitutional and violative of Article 14,16 and 21 of the Constitution of India consequently direct the respondent bank to adjust the loan Account No.37/2000 of the petitioner as per the letter dated 17-05-2003 of the petitioner with the FDRs of Petitioners niece, nephew, himself and his daughters

Counsel for the Petitioner: MR.K.RAMAKANTH REDDY

Counsel for the Respondents 1 & 2.: MR.NUTY RAM MOHAN RAO

Counsel for the Respondent No.3 : Govt.Pleader for Cooperation

The Court made the following :

ORDER:

Herd both sides and at their request, the main writ petition itself is taken up for disposal.

The petitioner, who claims to be an account holder along with his other relatives, filed this writ petition inter alia seeking writ of Mandamus to declare the action of the respondents in not adjusting the amounts lying in the accounts towards the loan and also not considering the detailed letter filed on 17-5-2003 in this regard as illegal and arbitrary.

The case of the petitioner, in brief, is that having regard to the fact that certain amounts are lying to the credit of the account of petitioner as well as his other near relations, in respect of which particulars have been furnished and also no objections have been filed for such adjustment, there is absolutely no justification for the respondents herein in not considering the same and not passing any orders thereon. Further, there is also no justification for not adjusting the amounts of the petitioner as well as the other account holders when they are ready to make such adjustment.

Having considered the submissions made and on perusal of material, it is seen that the request of the petitioner appears to be quite reasonable and there is absolutely no justification for withholding the said letter and not considering the request made therein. So, it is always open for the petitioner herein to seek such adjustment of the amounts lying in the accounts including the other account holders, whose consent has already been given and who have no such objection in this regard.

Under the above circumstances, inspite of going into merits of the case either way it would suffice in the interest of justice in directing the respondents herein to consider the said application/letter filed on 17-5-2003 and pass orders, in accordance with law, after giving notice and opportunity to the petitioner.

The writ petition is disposed of accordingly. No costs.

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B. PRAKASH RAO, J

Dt. 23-08-2004

KVRK

To

1 The Charminar Cooperative Bank Ltd., Represented by its Recovery Manager, (SPA) Purani Haveli, Hyderabad.
2 The Administrative Officer, The Charminar Cooperative Bank Ltd. Mallepalli, Hyderabad.
3 The District Cooperative Officer, Hyderabad.

4. Two CD copies.